



Le Sueur County, MN

Thursday, June 15, 2017

Regular Session

Item 1

Approved June 15, 2017 Meeting Minutes

Staff Contact: Kathy Brockway or Michelle Mettler

**LE SUEUR COUNTY PLANNING AND ZONING COMMISSION
BOARD OF ADJUSTMENT
88 SOUTH PARK AVE.
LE CENTER, MINNESOTA 56057
June 15, 2017**

MEMBERS PRESENT: Jeanne Doheny, Jim Mladek, John Wolf, Francis Cummins
MEMBERS ABSENT: Colin Harris
OTHERS PRESENT: Kathy Brockway, Commissioners Connolly and Rohlfling

The meeting was called to order at 3:00 PM by Chairperson, Jeanne Doheny.

ITEM #1: MATHEW DAVIS, MADISON LAKE, MN (APPLICANT/OWNER): Per court order, remand consideration of decision, findings, and reason for decision on Variance #16220, request on August 18, 2016 to construct a pool and pool house 55 feet to the Ordinary High Water Level (OHWL) in a Recreational Residential "RR" District on a Recreational Development "RD" lake, Lake Jefferson. Property is located at Lot 9, Harriet Isle Subdivision, Section 4, Washington Township. **VARIANCE IS FOR OHWL SETBACKS.** Pursuant to the court's remand order, the Board's decision will be based on the existing record and the Board will articulate its ultimate decision, the reasons for its ultimate decision, with specific reference to the relevant provisions of statute and zoning ordinance and the statutory factors dealing with whatever their ultimate decision may be.

Chairperson, Jeanne Doheny indicated that no public testimony on this remand order will be heard, asked Atty. Kenneth Bayliss representing Le Sueur County, to bring the Board up to date as to why we are here and how we got here.

Kenneth Bayliss, stated that this is a remand order from Judge Vandelist, that the findings were not sufficient and therefore, asked that the Board of Adjustment relook at their findings. A variance was granted for a single family dwelling on this property, but the board denied the variance request for a pool house and pool.

The applicants appealed to district court the decision to district court. Judge Vandelist heard arguments from both parties as to whether the variance was denied properly. Due to the several blanks on the findings form, the judge indicated that there was not sufficient information to make a determination on the appeal.

Judge indicated at the end of his order whatever the case may be, which could mean that the board could go through the findings and change their answers if they so desired with a statement might change your mind.

Advised the board to go back through the 7 factors before you and explain your reasons as to why you made that determination.

Kathryn Swenson, Attorney representing Mr. Davis, indicated that she did not have comments at this time.

Chairperson Doheny, we can go through the Findings of Fact. Consider each question independently from remand order.

- No variance may be granted that would allow any use that is prohibited in the Zoning District in which the subject property is located.
 - Facts supporting the answer to each question must be documented below, and are hereby certified to be the findings of fact of the Board of Adjustment.
 - A Variance may be granted only where the strict enforcement of the official control will result in a practical difficulty.
 - It is the responsibility of the applicant/landowner to prove evidence that a practical difficulty exists.
 - A determination that a practical difficulty exists upon the consideration of the following criteria.
1. Does the property owner propose to use the property in a reasonable manner? All answered No.
The request is for 55' from the OHWL, the Ordinance requires 100 ft. this is a substantial intrusion into the lake setback area. Already a significant intrusion on the lot with allowing the construction of the home. Driven by the lake, you can see the add the pool and pool house you increase visibility not only from the road as well as lake Alters the essential character of the area and takes away from the area.
 2. Is the alleged practical difficulty unique to the property? All answered No.
Shoreland properties have the same type of issues with setbacks, erosion control issues not just unique to this property. Referred to the DNR letter, read into the record at the August meeting. Change character to this area. Received a document from the DNR it supports/reiterates the concerns of the DNR.
 3. Were the circumstances causing the practical difficulty created by someone other than the applicant/landowner? All answered No

No practical difficulty was established; they created it on their own. Water toys can be stored in the house.

4. Will the issuance of the Variance maintain the essential character of the locality? All answered No.
As stated before, it will definitely change the character of the area, the character of the area has already been altered due to the house, the house is already a substantial intrusion to this property.
5. Does the alleged practical difficulty involve more than economic considerations? 3- No. 1-Yes
It is to satisfy their preference to utilize the property.
6. Is the Variance consistent with and supported by the statement of purposes, policies, goal and objectives in the Ordinance? All answered No.
Health of the lakes, how we use our land has an impact on the water quality of the lakes, need to preserve our lakes in the county. Responsibility to control impervious surface close to the lake, Land Use Goals 2-3 of the Plan specifically address these issues.
7. Is the Variance consistent with the Comprehensive Plan? All answered No.
Protect our lakes is part of the plan.

Motion was made by John Wolf to deny the application pertaining to the pool and pool house. Seconded by Jim Mladek. Jim Mladek-deny the variance, John Wolf-deny the variance, Jeanne Doheny- deny the variance, Fritz Cummins-deny the variance. Motion approved. Motion carried.

Chairperson requested that Mr. Bayliss prepare the written findings for the next meeting.

ITEM #2: JOHN EWERT, WATERVILLE, MN (APPLICANT); JOHN & MELINDA EWERT, WATERVILLE, MN (OWNER): Request that the County grant a Variance from the Le Sueur County Zoning Ordinance to allow the applicant to install a septic pump tank 59 feet from the OHWL, utilize the existing septic tank 44 feet from the OHWL, install a septic drainfield 18 feet from the structure in a Mineral Resources Overlay District and a Recreational Residential "RR" District on a Recreational Development "RD" lake, German Lake. Property is located at Lot 1, 2, & 3, Glen's Beach Subdivision, Section 4, Elysian Township. **VARIANCE IS FOR OHWL AND STRUCTURE SETBACKS.**

John Ewert was present for application. Township: Notified through the application process. DNR: No comments. Letters submitted: none.

PUBLIC COMMENT: None

Discussion was held regarding property located within the G-J Sewer District, update prior to December 31, 2017, fortunate to have 3-lots, however, no other options on the property, utilizing an existing tank, new tank further from the lake than the complying tank.

Findings-see file

Motion was made by Fritz Cummins to approve the application as presented. Seconded by John Wolf. Motion approved. Motion carried.

ITEM #3: JACOB HARTMAN, NEW PRAGUE, MN (APPLICANT); DONNA TRAUTMILLER, WATERVILLE, MN (OWNER): Request that the County grant a Variance from the Le Sueur County Zoning Ordinance to allow the applicant to construct a septic system drainfield 3 feet from the road Right-Of-Way (ROW), 4 feet from the East property line and 12 feet from the shed in a Recreational Residential "RR" District on a Recreational Development "RD" lake, German Lake. Property is located at Lot 35, Glen's Beach Subdivision, Section 4, Elysian Township. **VARIANCE IS FOR ROAD ROW, PROPERTY LINE, AND STRUCTURE SETBACKS.**

Mike Skluzacek, MS Excavating, representing was present for application. Township: Notified through the application process. DNR: No Comments. Letters submitted: None.

PUBLIC COMMENT: None

Discussion was held regarding, property located within the G-J Sewer District, required to update non-complying system by December 31, 2017, meets the lake and well setbacks, no other options on the property for a standard system, new system with retaining walls will enhance the property, private road, placement of accessory structures.

Findings- see file

Motion was made by Jim Mladek to approve the application as requested. Seconded by Fritz Cummins. Motion approved. Motion carried.

ITEM #4: BRUCE & LONNA WING, CLEVELAND, MN (APPLICANT/OWNER): Request that the County grant a Variance from the Le Sueur County Zoning Ordinance to allow the applicant to install a septic drainfield 5 feet from the property line, 5 feet from the detached garage, install a septic pump tank 3 feet from the property line and 8 feet from the dwelling, install a septic tank 9 feet from the property line in a Recreational Residential "RR" District on a Recreational Development "RD" lake, Lake Jefferson. Property is located at Lots 9 & 10, Beaver Dam Plat, Section 5, Elysian Township. **VARIANCE IS FOR PROPERTY LINE AND STRUCTURE SETBACKS.**

Wayne James, James Brothers Construction, was present for application. Township: Notified through the application process. DNR: No comments. Letters submitted: None.

Discussion was held regarding: property within the G-J Sewer District, no other options for placement of standard system, year round dwelling, small lake lot.

Findings-see file

Motion was made by John Wolf to approve the application as requested. Seconded by Fritz Cummins. Motion approved. Motion carried.

ITEM #5: THOMAS LETTS, ST PETER, MN (APPLICANT); THOMAS & JENNIFER LETTS, ST PETER, MN (OWNER): Request that the County grant a Variance from the Le Sueur County Zoning Ordinance to allow the applicant to separate an existing nonconforming lot from an existing contiguous conforming lot under the same ownership for the purposes of sale and development and to make the nonconforming lot more nonconforming for lot size in a Conservancy "C" District. Property is located in the NW 1/4 of the SW 1/4, Section 23, Kasota Township. **VARIANCE IS TO SEPARATE A NONCONFORMING LOT FROM A CONTIGUOUS CONFORMING LOT UNDER THE SAME OWNERSHP AND FOR LOT SIZE.**

Tom Letts was present for application. Township: Notified through the application process. Joe Kienlen, Kasota Township Officer, contacted the office and wanted Mr. Letts commended for all the improvements to this property, will be an improvement to the property, numerous complaints received by both the Township and Sheriff's office due to this property. DNR: No Comments. Letters submitted: None.

PUBLIC COMMENT: Steve Rohfling, Chairman of the Board, LSC Commissioners, stated that the Letts family has cleaned up this property, blighted for years, increase in tax base.

Discussion was held regarding: history of the 2.87 acre parcel, did not realize when purchasing the property he would be required to combine the contiguous property to make a 5-acre parcel, he did not create the problem, the property has been a problem for quite some time in regards to rental property, 4-plex, parking, made several improvements to the property such as converted to a single family dwelling, tuck under garage, parking area, reclaimed the area, this will be an improvement to this area, conservancy district policies, easements, complying septic, would like to downsize the non-conforming lot in order to vacate an easement, if able to downsize the 2.87 acre parcel the easement would go away, regulations in the ordinance concerning contiguous lots.

Findings- See file

Motion was made by John Wolf to approve the variance to separate a non-conforming lot from a contiguous conforming lot under the same ownership for the purposes of sale and development. Seconded by Jim Mladek. Motion approved. Motion carried.

and Motion by Jim Mladek to deny the variance request to make the nonconforming lot more nonconforming for lot size. Seconded by Fritz Cummins. Motion approved. Motion carried.

Minutes: Additions or corrections-None. Motion to approve minutes by John Wolf. Seconded by Jim Mladek. Motion approved. Motion carried.

Motion to adjourn meeting by Fritz Cummins. Seconded by Jim Mladek. Motion approved. Motion carried.

Meeting Adjourned.

Respectfully submitted,
Kathy Brockway
June 15, 2017

Approved July 20, 2017

*Tape of meeting is on file in the
Le Sueur County Environmental Services Office*